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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,574	11/30/2005	Carl Binding	CH920020024US1	7879

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EXAMINER	
SMITH, CREIGHTON H	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,574	BINDING ET AL.	
	Examiner	Art Unit	
	Creighton H. Smith	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 10-13, 15-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Willars et al, #7,072,656.

In col. 5, lines 17 et seq., Willars et al disclose that what is needed is a technique to provide a mobile phone a list of neighboring cells that is adapted to that specific mobile's subscription. In a radio access network, Willars goes on to disclose in lines 23 et seq., comprising a serving control node and a drift control node, a determination is first made that a target cell controlled by the drift node's controller should be prepared for handover. The target cell is neighbored by other cells, with the mobile station being permitted to access radio resources or to handover to cells in one subset of cells but not permitted hand off to other cells. A filtered list of cells is sent to the user equipment which only includes the cells the radio network's controller will allow the mobile station is access. In lines 43 et seq. Willars et al disclose that the radio network's control node determines the allowed areas for the mobile station and also filters out the non-permitted cell areas, presumably those cell areas that would not support the mobile user's subscription requests. In col. 4, lines 28 et seq. Willars et al disclose that the radio network controller stores cell information for all cells it controls and all neighboring

cells. The RNC's UTRAN will transmit to the mobile subscriber a list of channels for which for which the mobile is to measure the signal strength. The mobile station measures the signal strengths of transmissions received from each of these neighbor cells and reports the strongest ones, which become candidates for handover. For claim 3, Willars et al disclose a look-up table, col. 6, lines 5-12. For claim 4, Willars et al is doing the same as applicant where they disclose in col. 5, lines 25-35, that the controller will determine which subset of cells to permit the mobile user to transition into.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Willars et al in view of Carlsson, U.S. Pat. App. Pb. #2003/0119524.

Willars et al never specifically disclose that the position of the mobile unit is ever made. However, Carlsson discloses I the Abstract that the position/location of the mobile unit is to be determined based on timing advance values. In [0020], Carlsson discloses that if the timing advance values are available, the location of the mobile station 80 may be determined without the need for **GPS.** Therefore, Carlsson has readily admitted that GPS may also be used to determine a mobile station's position. To have provided Carlsson's teaching of determining a mobile station's location in Willars et al radio network would have been obvious to a person having ordinary skill in the art because both references are seeking to provide 3rd generation services (3GPP)

to a mobile user as the user is moving/roaming from one cell area to another. The skilled practitioner in the wireless arts would have readily concluded that the need to know the user's location is critical in order to allow the network controller to execute a proper hand off.

Claims 6, 9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Willars et al in view of Englehart, U.S. Pat. App. Pub. #2004/0203580.

Englehart discloses in [0006] that the services that a subscriber can access are limited by the service plan to which they subscribe. In [0027 & 0028] Engelhart discloses that a service node 114 communicates to the mobile user 114 the capabilities and costs of the service node 114. To have provided Englehart's disclosure of a service node or control node communicating the cost of using the services of that particular provider into Willars et al communications system would have been obvious to a person having ordinary skill in the art because both references are teaching providing services to a roaming mobile subscriber, and the skilled artisan in the wireless communications art would have readily realized that these references are combinable.

Claims 7, 8, 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Willars et al in view of Miernik et al, U.S. Patent #7177641.

Miernik et al disclose the roaming of a mobile phone, col. 1, lines 27-42, and soft hand-off of that mobile phone in col. 6, line 29. in col. 12, lines 30-44, Miernik et al disclose that a database 95 contains data regarding serving nodes 61. Such data may be in the form of the type of node, status of nodes, loading, or capacity. Miernik et al go on to disclose that when processor 92 attempts to select one of the serving nodes

61, the processor attempts to balance the load between the nodes 61 based on their respective capacities and/or ***current load***. The current load on a serving node may depend on CPU usage, memory usage, occupancy, ***bandwidth usage***, or any other appropriate factor. To have provided Miernik's teaching of the processor in the control node measuring the current load or bandwidth of a particular sector before allowing a hand-off, into Willars et al would have been obvious to a person having ordinary skill in the art because if one wireless sector is filled to capacity with users requesting services it would be futile to cram another user into that sector because the quality of service would be far less than if the user was placed in a sector where the load was less. The skilled practitioner in this art would quickly realize this and find these references combinable.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

11 MAR '08

/Creighton H Smith/
Primary Examiner, Art Unit 2614